

SENATE BILL 532

M2

71r2819
CF 71r0542

By: **Senator Dyson**

Introduced and read first time: February 2, 2007

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Natural Resources – Diamondback Terrapin – Take and Possession**

3 FOR the purpose of repealing the requirement that the Department of Natural
4 Resources prepare a fishery management plan for the diamondback terrapin;
5 prohibiting the take or possession of diamondback terrapin for commercial
6 purposes; prohibiting the possession of a certain number of diamondback
7 terrapin for noncommercial purposes; repealing the requirement that the
8 Department adopt certain regulations for the catching of terrapin; requiring the
9 Department to adopt certain regulations for the conservation of diamondback
10 terrapin; repealing certain exemptions from certain excise and use taxes
11 relating to the catching of terrapin for commercial purposes; and generally
12 relating to the catch, take, or possession of diamondback terrapin.

13 BY repealing and reenacting, with amendments,
14 Article – Natural Resources
15 Section 4–215(b), 4–902, and 4–903
16 Annotated Code of Maryland
17 (2005 Replacement Volume and 2006 Supplement)

18 BY repealing and reenacting, without amendments,
19 Article – Natural Resources
20 Section 8–716(c)
21 Annotated Code of Maryland
22 (2000 Replacement Volume and 2006 Supplement)

23 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Natural Resources
2 Section 8–716(e) and (g) and 8–716.1(k)
3 Annotated Code of Maryland
4 (2000 Replacement Volume and 2006 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
6 MARYLAND, That the Laws of Maryland read as follows:

7 **Article – Natural Resources**

8 4–215.

9 (b) The Department shall prepare fishery management plans for the
10 following species:

- 11 (1) Striped bass or rockfish;
- 12 (2) White perch;
- 13 (3) Yellow perch;
- 14 (4) American shad;
- 15 (5) Hickory shad;
- 16 (6) Oysters;
- 17 (7) Blue crabs;
- 18 (8) Bluefish;
- 19 (9) Herring;
- 20 (10) Weakfish;
- 21 (11) Croaker;
- 22 (12) Spot;
- 23 (13) Summer flounder;
- 24 (14) American eel;

- 1 (15) Red drum;
- 2 (16) Black drum;
- 3 (17) Spotted sea trout;
- 4 (18) Horseshoe crabs;
- 5 (19) Menhaden;
- 6 (20) Tautog;
- 7 (21) Black sea bass;
- 8 (22) Scup;
- 9 (23) Hard shell clams; **AND**
- 10 (24) Catfish[; and
- 11 (25) Diamondback terrapin].

12 4-902.

13 [A person may not catch terrapin for commercial purposes unless he first
14 obtains a license from the Department.]

15 **(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION:**

16 **(1) A PERSON MAY NOT TAKE OR POSSESS DIAMONDBACK**
17 **TERRAPIN FOR COMMERCIAL PURPOSES; AND**

18 **(2) A PERSON MAY NOT POSSESS MORE THAN THREE**
19 **DIAMONDBACK TERRAPIN FOR NONCOMMERCIAL PURPOSES.**

20 **(B) THIS SECTION DOES NOT PROHIBIT:**

21 **(1) THE INCIDENTAL CATCH OF DIAMONDBACK TERRAPIN,**
22 **PROVIDED THE DIAMONDBACK TERRAPIN ARE RETURNED IMMEDIATELY TO**
23 **THE WATER; OR**

1 **(2) THE COLLECTION OR POSSESSION OF DIAMONDBACK**
2 **TERRAPIN IN ACCORDANCE WITH THE TERMS OF A SCIENTIFIC OR**
3 **EDUCATIONAL CERTIFICATE OR PERMIT ISSUED IN ACCORDANCE WITH § 4-212**
4 **OF THIS TITLE OR § 10-909 OF THIS ARTICLE.**

5 4-903.

6 [(a)] The Department shall adopt regulations governing[:

7 (1) The catching of terrapin; and

8 (2) Terrapin resources] **THE CONSERVATION OF DIAMONDBACK**
9 **TERRAPIN.**

10 [(b) The regulations adopted under this section shall be consistent with the
11 recommendations of the Maryland Diamondback Terrapin Task Force issued in 2001.]

12 8-716.

13 (c) (1) Except as provided in § 8-715(d) of this subtitle and in subsections
14 (e) and (f) of this section, and in addition to the fees prescribed in subsection (b) of this
15 section, an excise tax is levied at the rate of 5% of the fair market value of the vessel
16 on:

17 (i) The issuance of every original certificate of title required for
18 a vessel under this subtitle;

19 (ii) The issuance of every subsequent certificate of title for the
20 sale, resale, or transfer of the vessel;

21 (iii) The sale within the State of every other vessel; and

22 (iv) The possession within the State of a vessel used or to be
23 used principally in the State.

24 (2) Notwithstanding the provisions of this subsection, no tax is paid on
25 issuance of any certificate of title if the owner of the vessel for which a certificate of
26 title is sought was the owner of the vessel prior to June 1, 1965, or paid Maryland
27 sales and use tax on the vessel as required by law at the time of acquisition. The
28 Department may require the applicant for titling to submit satisfactory proof that the
29 applicant owned the vessel prior to June 1, 1965.

1 (e) A person is not required to pay the tax provided for in subsection (c) of
2 this section resulting from:

3 (1) A transfer between members of the immediate family as
4 determined by Department regulations;

5 (2) A transfer between members of the immediate family as
6 determined by Department regulations of a documented vessel for which the
7 transferor applied for and was issued a valid use sticker under § 8-712.1 of this
8 subtitle;

9 (3) A transfer to a licensed dealer of a vessel for resale, rental, or
10 leasing purposes;

11 (4) The holding of a vessel that is titled or numbered in another state
12 or is federally documented, provided:

13 (i) The vessel is held for resale or listed for resale by a licensed
14 dealer; and

15 (ii) The vessel owner signs an affidavit that there will be no use
16 of the vessel on the waters of the State other than for a sea trial;

17 (5) Purchase of a vessel by the State or any political subdivision;

18 (6) Purchase of a vessel by an eleemosynary organization which the
19 Secretary has approved;

20 (7) The purchase within the State of a vessel if the owner paid or
21 incurred a liability for the Maryland sales and use tax on the vessel prior to July 1,
22 1986;

23 (8) The possession within the State of a vessel which was purchased
24 outside the State if the owner paid or incurred a liability for the Maryland use tax on
25 the vessel prior to July 1, 1986;

26 (9) The possession of a vessel in the State that is not used or to be
27 used principally on the waters of the State and for which the issuance of a title is not
28 sought or required under this subtitle, except that:

29 (i) A vessel is not deemed used on the waters of the State if the
30 vessel is used for 90 days or less of a calendar year; and

1 (ii) If a vessel is used for more days than 90 days in a calendar
2 year, the period of 90 days shall be counted in the determination of principal use
3 under this subtitle;

4 (10) The possession within the State of a vessel if the current owner,
5 before July 1, 1986:

6 (i) 1. Was licensed by the Department to catch, for
7 commercial purposes, finfish, eels, crabs, conch, [terrapin,] soft-shell clams,
8 hard-shell clams, oysters, or any other fish; and

9 2. Used the vessel for any of the commercial fishing
10 purposes described in item 1 of this item;

11 (ii) 1. Was licensed as a commercial fishing guide under the
12 provisions of § 4-210 of this article; and

13 2. Used the vessel as a charter boat with a license as
14 provided in § 4-745(d)(2) of this article;

15 (11) The possession within the State of a vessel that:

16 (i) Is owned by a nonprofit organization that:

17 1. Is qualified as tax exempt under § 501(c)(4) of the
18 Internal Revenue Code; and

19 2. Is engaged in providing a program to render its best
20 efforts to contain, clean up, and otherwise mitigate spills of oil or other substances
21 occurring in United States coastal and tidal waters; and

22 (ii) Is used for the purposes of the organization;

23 (12) The possession within the State of a vessel for a period of not more
24 than one year if the current owner is a member of the armed services and is serving on
25 active duty in this State; or

26 (13) The sale of a vessel within the State if:

27 (i) The vessel is purchased from a licensed dealer;

28 (ii) The issuance of a title is not sought or required;

1 (iii) The vessel is not used or to be used principally on the waters
2 of this State;

3 (iv) The vessel is duly registered in another jurisdiction within
4 30 days of the date of purchase; and

5 (v) The dealer and the purchaser execute an agreement
6 certifying the state of principal use for the vessel which is filed with the Department
7 within 30 days of the date of purchase.

8 (g) (1) A person may claim a credit against any tax imposed under
9 subsection (c) of this section on a vessel for sales tax the person has paid to the State,
10 to another state, or to the District of Columbia on materials and equipment that are
11 incorporated into the vessel, if:

12 (i) 1. The person is licensed by the Department to catch, for
13 commercial purposes, finfish, eels, crabs, conch, [terrapin,] soft-shell clams,
14 hard-shell clams, oysters, or any other fish; and

15 2. The vessel is to be used for any of the commercial
16 fishing purposes described in item 1 of this item; or

17 (ii) 1. Was licensed as a commercial fishing guide under the
18 provisions of § 4-210 of this article; and

19 2. Used the vessel as a charter boat with a license as
20 provided in § 4-745(d)(2) of this article.

21 (2) The Department may require a person claiming the credit allowed
22 under this subsection to submit satisfactory proof of payment of the sales tax and that
23 the materials or equipment have been incorporated into the vessel.

24 8-716.1.

25 (k) Notwithstanding any other provision of law, the Department may not
26 collect or enforce any liability for the Maryland use tax that was incurred before July
27 1, 1986 on a vessel owned by a person who at the time the liability was incurred:

28 (1) (i) Was licensed by the Department to catch, for commercial
29 purposes, finfish, eels, crabs, conch, [terrapin,] soft-shell clams, hard-shell clams,
30 oysters, or any other fish; and

1 (ii) Used the vessel for any of the commercial fishing purposes
2 described in item (1)(i) of this paragraph; or

3 (2) (i) Was licensed as a commercial fishing guide under the
4 provisions of § 4-210 of this article; and

5 (ii) Used the vessel as a charter boat with a license as provided
6 in § 4-745(d)(2) of this article.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2007.